

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :10.06.2019

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.35579 of 2004
and

WPMP.Nos.42852 of 2004

S. Rathina

..Petitioner

vs

Transport Commissioner cum
State Transport AuthrORITY,
Chennai-5.

.. Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorari or any other appropriate writ or order or direction in the nature of a writ, calling for the records of the respondent herein made in R.No.54061/A5/2004 dated 01.11.2004 demanding a sum of Rs.1,08,000/- being tax and penalty for the quarter ending 30.09.2004 in respect of vehicle TN.09.P.1001 and quash the same.

For Petitioner : Mr. S. Radhagopalan

For Respondent : Mr. J. Ramesh, AGP

सत्यमेव जयते
O R D E R

The case of the petitioner is that the petitioner was granted contract carriage permit to the vehicle bearing registration No.TN.09.P.1001. The said vehicle was replaced by another vehicle bearing the registration No.TN.02.S.2232. In view of the replacement of vehicle permit, the petitioner was entitled to ply vehicle bearing Registration No. TN.02.S.2232. Contrary to the above, the said vehicle was intercepted by the Motor Vehicle Inspector Grade II office of the Regional Transport, Salem, who prepared the check report to the effect that vehicle T.N.09.P.1001 was replaced by another vehicle, which had no valid permit for the quarter ending 30.09.2004, on the basis of which the respondent issued the show cause cum

Demand notice on 16.08.2004. The petitioner also submitted her explanation stating that the Motor Vehicle Inspector by mistake has failed to verify the replacement slip attached to the permit and prepared the check report. Despite this, the respondent issued the present Demand Notice dated 1.11.2004 demanding Rs.1,08,000/- towards tax in respect of vehicle T.N.09.P.1001 for the quarter ending 30.09.2004, on the ground that the petitioner had violated the provisions of section 66 (1) of the Act, against which the present Writ Petition is filed.

2. Learned counsel for the petitioner submitted that though the petitioner's vehicle bearing Registration No.TN.09.P.1001 was granted contract carriage permit for the quarter ending 30.09.2004, the said vehicle was not plied instead, in its place the vehicle bearing Registration No. TN.02.S.2232 was plied with effect from 30.06.2004. The allegation is that the said vehicle was intercepted by the Motor Vehicle Inspector, who by mistake failed to verify the replacement slip attached to the permit, which led to the issuance of show cause notice; however, while issuing the demand notice, no document was supplied to the petitioner enabling her to put forward her case. No personal hearing was offered. Aggrieved by this, the petitioner made the prayer for allowing the petition.

3. Learned Additional Government pleader for the State would submit that the vehicle was plied in violation of the provisions under section 66(1), punishable under section 207 of the Motor Vehicles Act. Further it is an admitted fact that the vehicle which was intercepted was found being plied without permit and without payment of tax and accordingly prayed for dismissal of the Writ Petition.

4. On perusal of the records, it is seen that the old vehicle was replaced by vehicle bearing registration No.T.N.02.S.2232. However the fact remains that for the said vehicle tax has been paid upto 30.06.2004. The checking officer in his checking report stated that the vehicle was intercepted on 24.07.2004 and found that Vehicle No.TN.09.P.1001 was used, Contrary to the replacement order. Further the authority would state that the vehicle was operated in violation of section 66 (1) of the Motor Vehicles Act which is punishable under 207 of the Motor Vehicles Act. When the vehicle was intercepted and seized, the petitioner should have been provided with the seizure document and given an opportunity to put forth her case. In the present case, no records were provided to the petitioner enabling her to put forward her case effectively. In the absence of seizure record, I am inclined to remand back the matter in order to provide fair opportunity to the petitioner. Hence the matter is remanded to the respondent with direction to furnish due records to the petitioner and after personal hearing

to pass further orders in accordance with law. With the above directions, this Writ Petition is disposed of. No cost. Consequently, connected Miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

mrn

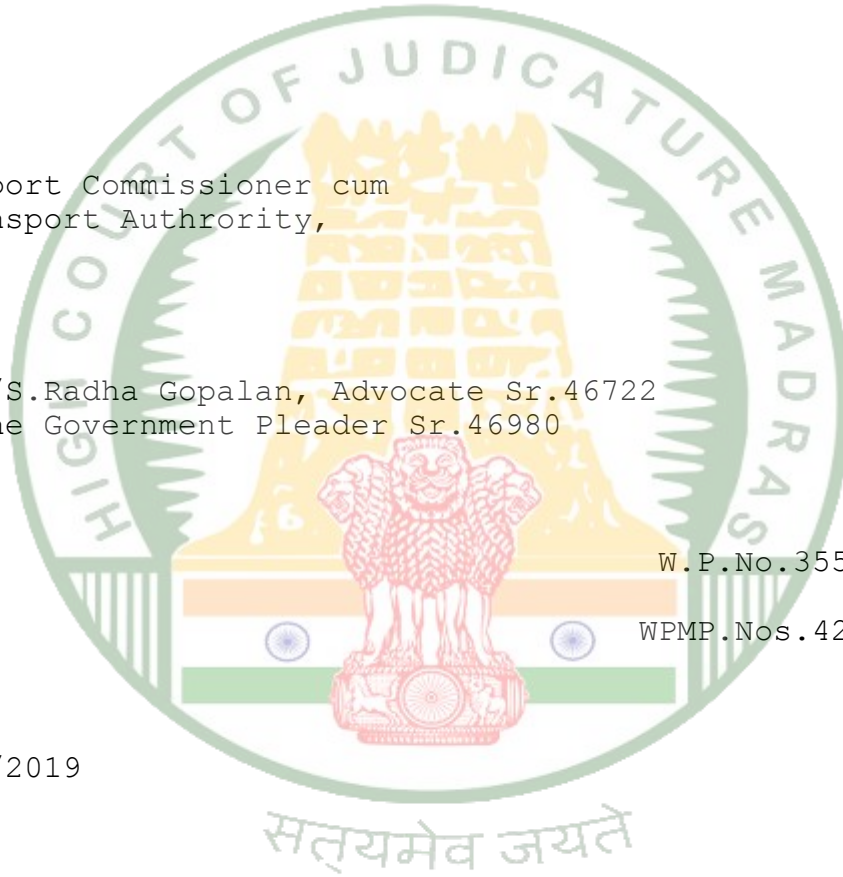
To

The Transport Commissioner cum
State Transport Authority,
Chennai-5.

+1cc to M/S.Radha Gopalan, Advocate Sr.46722
+1cc to the Government Pleader Sr.46980

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srg 16/07/2019



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